

Minutes of the Board of Adjustment meeting held on Monday, April 13, 2009, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Joyce McStotts, Vice-Chair
Rosi Haidenthaller
Jonathan Russell
Connie Howard
Tim Tingey, Community & Economic Development Director
Ray Christensen, Senior Planner
Citizens

Excused: Wendell Coombs, Chair

There was a staff review meeting held where the Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

APPROVAL OF MINUTES

Joyce McStotts asked for additions or corrections to the minutes of March 9, 2009. Connie Howard made a motion to approve the minutes as amended. Jonathan Russell seconded the motion.

Voice vote was taken. Minutes approved 4-0.

Ms. McStotts explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and that financial issues are not considered a hardship.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

CASE #1374 – KEVIN GODFREY – 1210 Breckenridge Drive

Kevin Godfrey was the applicant present to represent this request. Ray Christensen reviewed the location and request for a second story addition to a nonconforming residential structure which does not meet the side yard setback requirements for the property addressed 1210 East Breckenridge Drive. The property is located within the R-1-8 zone. Murray City Code Section 17.52.040 requires Board of Adjustment approval for an addition to a nonconforming dwelling which does not meet the side yard setback requirements. Section 17.100.080 requires total side yard setbacks to be 20 feet and a minimum of 8 feet on one side yard. The applicant is requesting approval for a residential building second story addition where the lot does not meet the side yard setback requirements. The side yard setbacks for the dwelling total about 16 feet and one of the side yards setback is about 66 inches. There are storage shed buildings which have been located in the side yard setbacks. This property was previously in Salt Lake County and was annexed into Murray City years ago. The dwelling was built in Salt Lake County in 1968. With the location of the house, it is a hardship for the applicant to meet the current land use ordinance setback regulations in order to construct the second story addition to the house. The Salt Lake County regulations, at the general time the house was built, had 18 feet total side yards required and 8 foot minimum. Other properties in the area have dwellings with second story structures.

Kevin Godfrey, 1210 Brekenridge Drive, stated the addition is for a second floor above the garage and family room. He stated he will move the illegal storage sheds in the side yards to the rear yard. He stated the proposed addition will be about 650 sq.ft.

Mr. Russell asked when the home was constructed. Mr. Godfrey responded the home is about 40 years old and he recently put new stucco on the front of the home and left the back siding alone in anticipation of this addition.

Ms. Haidenthaller asked about removal of the existing sheds. Mr. Godfrey responded that the sheds existed prior to him purchasing the home and one of the sheds is actually attached to the bedroom end of the home and does extend to the edge of the property. He stated he will somehow need to relocate this shed. The other sheds are fairly mobile and can be relocated into the rear yard area.

Ms. Haidenthaller stated that the planning staff received an email today, April 13, 2009, from M. B. Cluff, residing at 5450 York Street, indicating opposition to the variance and is also opposed to monster homes and additions in older neighbors.

Mr. Russell asked about the height of the home. Mr. Godfrey responded the existing height of the home is about 12 feet, and the height with the addition is close to 20 feet high. He stated there are numerous two-story homes on this street.

Mr. Russell made a motion to grant the variance for Kevin Godfrey based on the hardship, the unique shape of the lot, the age of the home and the position where the home is located. The variance is granted with a stipulation that the storage structures be moved to a location that is in compliance with city regulations. Seconded by Connie Howard.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. Haidenthaller
<u>A</u>	Ms. McStotts
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion passed 4-0.

Ms. Haidenthaller made a motion to adopt the Findings of Fact for Kevin Godfrey, Case #1374 as written. Seconded by Ms. Howard.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. Haidenthaller
<u>A</u>	Ms. McStotts
<u>A</u>	Mr. Russell
<u>A</u>	Ms. Howard

Motion passed 4-0.

CASE #1375 – DANIEL CHIRSTENSEN – 6554 South Jefferson Street

Daniel Christensen was the applicant present to represent this request. Ray Christensen reviewed the location and request for a front yard setback for property

located at 6554 South Jefferson Street. Municipal City Code Section 17.100.080(A) requires the front yard in an R-1-8 zone have a minimum depth of 25 feet. Section 17.052.040 allows for expansions of existing nonconforming structures subject to approval by the Board of Adjustments. The applicant has requested a variance to allow for construction of an addition to an existing residence. The property is located in an R-1-8 zone and requires a 25 foot front yard setback. The existing home currently has a front yard setback of 18 feet from Jefferson Street. Therefore, the request is for a seven (7) foot variance. County Assessors records indicate the existing residence was constructed around 1898. The property originally extended into what is now Jefferson Street and the residence was setback 398 feet from the property line. Improvements and widening of Jefferson Street over the years have decreased the setback from the front of the home to the street. The need from the variance arises from the improvement of Jefferson Street over the years and the accompanying reduction of setback to the residence. The property consists of two separate parcels which will need to be combined prior to the issuance of a building permit for any addition to the home. Notice of this application was sent to the surrounding property owners on April 1, 2009. As of the date of this report, no comments have been received.

Daniel Christensen, 6554 South Jefferson Street, stated originally his property line was about 20 feet into the road. He stated the proposed addition is about 36' X 20' which is a main level and second story addition. The existing square footage is just under 1,000 sq.ft. and the addition is 700 sq.ft. per level, making the total additional 2,100 sq.ft.

No comments were made by the public.

Rosi Haidenthaller made a motion to grant the variance based on the findings of fact because the hardship is the home was constructed prior to the zoning regulations and there is no feasible way to bring the home into compliance at this time. Because of the widening of the street there is a smaller front setback and the variance will not affect the general plan and will not be contrary to public interest. Seconded by Connie Howard.

Call vote recorded by Ray Christensen.

 A Ms. Haidenthaller
 A Ms. McStotts
 A Mr. Russell
 A Ms. Howard

Motion passed 4-0.

Connie Howard made a motion to adopt the Findings of Fact as written. Seconded by Rosi Haidenthaller.

Call vote recorded by Ray Christensen.

 A Ms. Haidenthaller
 A Ms. McStotts
 A Mr. Russell
 A Ms. Howard

Motion passed 4-0.

CASE #1376 – KIRK & JANET JAMESON – 975 East Searle Avenue

Kirk and Janet Jameson were the applicants present to represent this request. Ray Christensen reviewed the location and request for a 7 foot side yard setback variance at the property addressed 975 East Searle Avenue. The applicants requested the variance to construct a garage within one foot of the property line. Murray City Code Section 17.100.080 states: "Residential building lots in the R-1-8 zone shall meet the following minimum yard requirements. B. Side Yard. The minimum depth of one of the side yards of a residential dwelling is 8 feet and a total width of the two side yards shall not be less than 20 feet." The applicants are requesting a 7 foot variance to convert a carport into a garage within one foot of the property line. The garage was being constructed without a permit and Murray inspector issued a Stop Work Order on the construction. The garage structure has been constructed on a 5 foot utility easement at the east side of the property. The photos of the building show a change in the old roof line where the carport/garage was later added onto the existing dwelling. The house was constructed in 1963. This area was annexed into Murray City from Salt Lake County. The general setback requirements for Salt Lake County about that time were 8 feet minimum side yard and total of 20 feet side yards. A mailing was sent to the surrounding property owners April 1, 2009. One letter was received by the adjoining neighbor, Lee and Mary Spencer indicating they are in favor of the variance.

Janet Jameson, 975 East Searle Avenue, stated the home is 46 years old and when the home was constructed their intent was to eventually add a two-car carport. She stated the city inspector noticed there was no permit for this construction.

Rosi Haidenthaller read a bid form from Intermountain Remodeling dated 1/16/2009 submitted from Mrs. Jameson: "...city permit to be obtained by Intermountain Remodeling." The homeowner paid Intermountain Remodeling company to do the work and the Jameson's were under the impression the contractor had obtained the proper permits.

Janet Jameson stated a week ago the city engineer, Scott Stanger, told her they would need to obtain authorization from the four different utility companies for the encroachment into the side yard easement. She stated she has completed this encroachment authorization from the various utility companies. Mrs. Jameson stated this property was recorded in April of 1963 and the setback/easement was taken off by the engineer. Between 1989 and 1991 the Salt Lake County Recorders were told to redo the lots in this area. The reason the county recorders did not research their property was the fact they never refinanced the home nor was the home sold, so there was nothing to indicate anything had been changed. She stated on the original plans it indicates a 5 foot setback on each side yard boundary, but the new plat does not show the setback/easement.

Mr. Russell asked Mrs. Jameson how long they have lived in the home. Mrs. Jameson responded they are the original owners of the home and have lived in the home the entire time. This property was annexed into the city a few years ago. She stated the shed and the driveway have been at their current location since the lot was developed and the home was built and therefore, she did not feel this addition would be a problem.

Mrs. Jameson stated she also submitted a letter from another neighbor, the Montgomery's, indicating they are in favor of the variance. She stated it would be a hardship if they are required to tear down the garage that is under construction.

Mary Spencer, 5148 South 1000 East, stated they are the adjacent neighbor to the Jameson's. She stated they received a variance from the county approximately 20 years ago to build a garage. She stated they planted hedges for privacy, but with this new garage the Jameson's are wishing to construct, the garage would add to the privacy issue and would be wonderful. She stated she is in favor of the variance.

Ms. Jameson stated the construction company indicated the exterior wall of the garage is foam and the foam will not burn and would not be fire hazard for the neighbors.

Mr. Russell stated, in his opinion, that the Jameson's have incurred costs by having to come before this board and the Jameson's ought to subtract those costs from the contract price.

Ms. Howard asked about the subdivision plat map indicating the no setback in the side yard and where the 5 foot utility easement is recorded. Mrs. Jameson responded the original plat map did not record the easement, but the Murray City setback is 8 feet. Mrs. Jameson stated she has received approval from all four utility companies authorizing the encroachment into the setback.

Ms. Haidenthaller stated the easement in essence is no longer necessary because the utility companies have given the Jameson's authorization to encroach into the easement.

Ms. Haidenthaller asked about the neighborhood having been constructed in the same time period and a lot of those homes have enclosed their carports over the past 20 years and have encroached within inches of the side yard area.

Ms. Haidenthaller commented that the placement of the home is so far to the east and there is so much room on the property.

Ms. Howard asked Ms. Jameson if the contractor has offered any type of a solution regarding this issue. Ms. Jameson responded she has not contacted the contractor since this issue was brought about.

Mr. Russell stated in looking at the criteria upon which decisions are made there are five criteria. One of the criteria is "the literal enforcement of the zoning ordinance would cause unreasonable hardship for the applicant". Financial issues are things that cannot be considered. However, literal enforcement would cause undue hardship on the Jameson's. "There are special circumstances attached to the property that are not generally applicable to other properties" such as it is an older home and the property where the home is placed have special circumstances that exist. "Granting the variance is essential for the enjoyment of the property owner" which is one of the responsibilities of the Board. He said the Board wants to help property owners have full enjoyment of their property. "The variance would not substantially affect the general plan". There are a number of homes in the area that enjoy garages, double carports, etc. "The spirit of the zoning ordinance is observed and substantial justice is done". Based on the above mentioned, he recommended granting the variance to have the addition completed. Seconded by Ms. Howard.

Call vote recorded by Ray Christensen.

 A Ms. Haidenthaller
 A Ms. McStotts
 A Mr. Russell
 A Ms. Howard

Motion passed 4-0.

Connie Howard made a motion that the Findings of Fact be rewritten to reflect the motion made by Jonathan Russell for approval of the variance request for Kirk and Janet Jameson. Mr. Tingey asked for more specific for the Findings of Fact.

Connie Howard added to the Findings of Fact that the variance is granted based on the general purpose being with the substantial rights and possessions of the property would be denied to the Jameson's if this variance were not granted and the literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicants; that there is a special circumstances attached to this property based on age and the way the home was built on the property; that their enjoyment would be reduced if it was not granted and other property owners in the same situation in the same area are enjoying the same double garages with the same sort of issues; this does not substantially affect the general plan and is not contrary to public interest.

Joyce McStotts asked if the Board may wait until next meeting to vote on the Findings of Fact until they have seen the document. Mr. Tingey stated the Board may wait until the next meeting to adopt the Findings of Fact, however, any appeals that may occur within 30 days of today's date would be delayed an additional 30 days.

Connie Howard stated the Board would vote on the Findings and if there are substantial changes that need to be made, the changes could still be made.

Rosi Haidenthaller seconded the motion for adoption of the Findings of Fact.

Call vote recorded by Ray Christensen.

<u> A </u>	Ms. Haidenthaller
<u> A </u>	Ms. McStotts
<u> A </u>	Mr. Russell
<u> A </u>	Ms. Howard

Motion passed 4-0.

Meeting adjourned.

Ray Christensen, AICP
Senior Planner